

ADM File No. 2010-13

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Dear Justices of the Michigan Supreme Court:

This is in response to the Court's Order, dated June 28, 2011, which requested comments on the form or merits of the proposed amendment of Rule 6.001 of the Michigan Court Rules. It is my understanding the proposed amendment would eliminate applicability of the rules in subchapters 6.000 to 6.500 in felony cases, either before or during any preliminary hearing. I urge the Court to reconsider this proposed amendment as it would unduly burden defendants and significantly increase the costs incurred by the state with prosecuting cases.

While one of the incentives supporting elimination of discovery at or before the preliminary hearing would be avoiding the costs associated with providing such information, the net impact of this proposed change would actually cost the state much more. Without discovery, defense attorneys would have little choice but to hold preliminary hearings in nearly ALL cases which would place a huge administrative burden on courts, prosecutors, and police departments. Whatever potential savings this proposed amendment would generate would be more than offset by the additional costs associated with having to conduct these additional hearings.

For this reason alone, I suggest the Court reject the proposed amendment of Rule 6.001.